

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CAPRI SUN GMBH,

Plaintiff,

-v-

AMERICAN BEVERAGE CORPORATION,

Defendant.

19 Civ. 1422 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received American Beverage Corporation's ("ABC") motion, under 28 U.S.C. § 1292(b), for certification of an interlocutory appeal of the question:

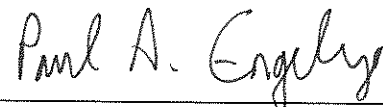
Whether the no-challenge provision contained in Section 6.3 of the Settlement and License Agreement is enforceable with regard to ABC's defense that U.S. Trademark Reg. No. 1,418,517 is functional.

Dkt. 224 at 1. That motion is conditioned upon this Court's grant of Capri Sun's motion for interlocutory appeal, filed on June 30, 2022, and due to be fully briefed on July 21, 2022. Dkts. 219, 223.

The Court directs Capri Sun, by July 21, 2022, to file a brief in opposition to ABC's instant motion or to notify the Court that it does not oppose ABC's motion, and ABC to file its reply brief by July 28, 2022, if Capri Sun has filed an opposing brief.

Capri Sun may elect to file its opposition to ABC's motion and reply in support of its own pending motion, both due on July 21, 2022, in a single brief.

SO ORDERED.

A handwritten signature in cursive script, reading "Paul A. Engelmayer".

---

PAUL A. ENGELMAYER  
United States District Judge

Dated: July 8, 2022  
New York, New York